

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 14-CR-0072 (PJS/JSM)

Plaintiff,

v.

ORDER

ANDRE MAURICE COX,

Defendant.

Surya Saxena, UNITED STATES ATTORNEY'S OFFICE, for plaintiff.

James Becker, OFFICE OF THE FEDERAL DEFENDER, for defendant.

Defendant Andre Cox pleaded guilty to one count of being a felon in possession of a firearm and is in custody awaiting sentencing. This matter is before the Court on Cox's motion for a three-day, daytime-only furlough to attend to certain academic issues and to spend time with his family. Although the Court is sympathetic to Cox's goals, the Court cannot find that Cox is eligible for a furlough. Cox's motion is therefore denied.

Under 18 U.S.C. § 3143(a), a district court "shall order" the detention of a defendant who, like Cox, has been convicted of a crime for which the Sentencing Guidelines recommend imprisonment. The general rule has one exception: A court may release the defendant if the court "finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under [18 U.S.C. §] 3142(b) or (c)." *Id.*

The Court cannot make such a finding in this case. As Magistrate Judge Jeanne J. Graham found in ordering Cox's pretrial detention [ECF No. 50] — and as confirmed

by records received from the probation and pretrial-services office — Cox has a lengthy and troubling criminal history. Cox is presently in custody because he has been convicted for a *fifth* time of being a felon in possession of a firearm, and his most recent prior conviction is only four years old. Indeed, Cox committed this felon-in-possession offense while he was on supervised release for a prior felon-in-possession offense. In light of this criminal record, the Court cannot find by clear and convincing evidence that Cox will not pose a danger to the community if he receives a furlough.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT defendant's motion for a temporary furlough [ECF No. 56] is DENIED.

Dated: September 16, 2014

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge